

PTO: 2005-2966

Office Action

NOTIFICATION OF REASONS FOR REJECTION

Control No.: Not indicated.

Transmittal No.: 316850

Date of Transmission: August 31, 2004

Patent Application No.: 2001-504211

Drafted Date: August 26, 2004

JPO Examiner: Keiko Nagai 9123 4N00

Agent: Kei Ishida et al.

Applied Law: Section 29(1), Section 29(2) of the patent law.

This application is rejected for the reasons marked below. Any arguments relative to this notification must be submitted in writing within 60 days of the data of transmittal of this notification.

REASONS

(Reason 1) The invention of this application in the claims thereof indicated below is an invention that was described in the publication(s) indicated below, which was (were) distributed or available to the public through telecommunication lines in Japan or elsewhere prior to the filing of the application; and as such, in accordance with Section 29 (1) (iii) of the patent law, may not be granted a patent.

(Reason 2) The invention of this application, in the claims thereof indicated below, is an invention that could easily have been made, prior to the filing of the patent application, by a person with ordinary skill in the art to which the invention pertains, on the basis of an invention described in the publication(s) indicated below, which was (were) distributed or available to the public through telecommunication lines in Japan or elsewhere prior to the filing of the application; and as such, in accordance with Section 29 (2) of the patent law, cannot be granted a patent.

NOTE (See a list of cited references)

(1) Claims 1 – 5; Reasons 1, 2; Cited reference 1

The cited reference 1 discloses that the root base (0006) including the stem base of gyozya [A transliteration provided for not being able to locate in dictionaries.] garlic, which belongs to an Allium plant variety like garlic does, is cultured and its adventive shoots are made to sprout and separated, and that the individual bodies can be produced by culturing the shoots (0019) and (0022).

The root base including the stem base in the cited reference 1 is perceived as being equivalent to a general leaf base in this application. Also, the cited reference 1 does not disclose whether or not the produced individual body is virus-free. However, it is already known that virus-free plant can be produced by a growth-point culture. Therefore, it goes without saying that a person with ordinary skill in the art knows that the virus-free plant can be produced by the method mentioned in the cited reference 1, depending upon the conditions.

Accordingly, the invention in Claims 1 – 5 does not demonstrate an inventive step or novelty due to the existence of cited reference 1.

(2) Claims 1 – 5; Reason 2; Cited reference 2

The cited reference 2 discloses: (a) dome-shaped tissues are formed by culturing the general leaf base of garlic (summary, Fig. 3, Fig. 4); (b) the formation process of the dome-shaped tissues of cells is the same as that of the growth point (page 776, column 15, line 20); (c) every dome-shaped tissue grows into an individual body through a stage of shoot (summary); (d) this culture method is useful in producing the virus-free plant.

The cited reference 2 does not disclose the separation of the dome-shaped tissue, but it is a general means in plant tissue culture that every individual body base of the formed adventive shoot is separated and cultured to produce the individual body (for example, cited reference 1). It is evident from said disclosures (b) and (c) in the cited reference 2 that the dome-shaped tissue is the base on which the individual body grows. Accordingly, a person with ordinary skill in the art can easily conceive that the dome-shaped tissue in the cited reference 2 is separated and cultured, and a person with ordinary skill in the art can predict its effect based on the disclosure in the cited reference 2. Therefore, the invention cited in Claims 1 – 5 cannot be recognized as having an inventive step.

LIST OF CITED REFERENCES

1. Japanese Unexamined Patent Application 06-98650.
2. AYABE, M et al., Plant Cell Reports, vol. 17, pp. 773 – 779 (1998)

Please contact me at the following phone number if you have any questions on this case.

Keiko Nagai, 3rd Examination Unit, Biotechnology.

Phone: 03-3581-1101

Fax: 03-3501-0491

PRIOR ART REFERENCE SEARCH RESULT

Field of search: IPC 7th issue A01H 4/00

BIOSIS

WPIDS

JST plus

The prior art search references do not constitute the reason for rejection.

PTO/Translations

Akiko Smith